

AN ORDINANCE 2006-06-01-0658

**AUTHORIZING THE SUSPENSION, THROUGH SEPTEMBER 30, 2006,
OF THE PROVISIONS OF CHAPTER 34 OF THE CITY CODE
RELATING TO THE IMPOSITION OF A CRITICAL PERIOD
SURCHARGE BY THE SAN ANTONIO WATER SYSTEM ("SAWS")
DURING TIMES OF EDWARDS AQUIFER DROUGHT RESTRICTIONS**

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WHEREAS, the Edwards Aquifer is the primary source of water for approximately 1.7 million people in south central Texas, including the City of San Antonio; and

WHEREAS, on June 16, 1994, the City Council passed Ordinance No. 80330 amending Chapter 34 of the San Antonio Municipal Code and adopting, as a drought management measure, a Critical Period Surcharge Rate ("Surcharge") whose purpose is to discourage discretionary water consumption by residential customers during any time designated a "critical period" by the City Council; and

WHEREAS, on September 14, 2000, the City Council passed Ordinance No. 92503 amending Chapter 34 of the San Antonio Municipal Code and adopting the Edwards Aquifer Management Plan, including comprehensive water use reduction measures and associated aquifer stage conditions; and

WHEREAS, pursuant to Chapter 34 of the San Antonio Municipal Code, the Surcharge is triggered when the water level in the Edwards Aquifer falls to 650 feet above mean sea level ("msl") (referred to as "Phase I of Critical Period)," and when the water level falls to 640 feet above msl (referred to as "Phase II of Critical Period"); and

WHEREAS, SAWS estimates that, if implemented in the summer of 2006, the Phase I Surcharge would affect approximately 13% of residential customers and Phase II Surcharges would affect approximately 47% of residential customers; and

WHEREAS, as a result of adoption of the Edwards Aquifer Management Plan by City Council, and other water conservation and educational measures initiated by SAWS, per capita consumption of water has been reduced by 22.4% in San Antonio since 1994; and

WHEREAS, due to the success of water conservation measures implemented over the last decade, SAWS believes that the Surcharge has become an outdated punitive rate that should be reevaluated in light of the City's current water conservations programs, including the Edwards Aquifer Management Plan, and recommends suspension of the Surcharge through September 30, 2006 at which time SAWS will provide the City a comprehensive recommendation on whether to retain the Surcharge in its current or different form as an integral part of the City's overall water conservation plan; and

WHEREAS, the Edwards Aquifer Authority estimates that the water level of the Edwards Aquifer will fall to 650 feet above msl on or before the first week in June 2006; **NOW THEREFORE:**


BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The Critical Period Surcharge Rate found in Sections 34-122 and 34-128 of the San Antonio Municipal Code is hereby suspended through September 30, 2006.

SECTION 2. Should the level of the Edwards Aquifer fall to 650 feet above msl before the date when this Ordinance becomes effective, any Critical Period Surcharge Rate amount incurred by residential customers during that time period is hereby waived.

SECTION 3. This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage.

PASSED AND APPROVED this 1st of June 2006.



M A Y O R

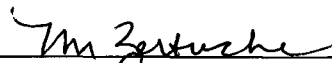
PHIL HARDBERGER

ATTEST:



City Clerk

APPROVED AS TO FORM:



for City Attorney

Agenda Voting Results

Name: 26.

Date: 06/01/06

Time: 03:53:18 PM

Vote Type: Multiple selection

Description: An Ordinance authorizing the suspension, through September 30, 2006, of the provisions of Chapter 34 of the City Code relating to the imposition of a critical period surcharge by the San Antonio Water System during times of Edwards Aquifer drought restrictions. [Presented by Ben Gorzell, Acting Director, Finance; Sheryl Sculley, City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1		x		
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3	Not present			
RICHARD PEREZ	DISTRICT 4			x	
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9			x	
CHIP HAASS	DISTRICT_10	<i>Not present yet</i>			
MAYOR PHIL HARDBERGER	MAYOR		x		

Agenda item # 26

**CITY OF SAN ANTONIO
FINANCE DEPARTMENT
CITY COUNCIL MEMORANDUM**

TO: Sheryl Sculley, City Manager
FROM: Ben Gorzell Jr., CPA, Acting Director of Finance
SUBJECT: An Ordinance Authorizing the Temporary Suspension of the San Antonio Water System Rate Provisions Pertaining to the Imposition of a Critical Period Surcharge
DATE: June 1, 2006

SUMMARY AND RECOMMENDATION

This Ordinance authorizes the suspension, through September 30, 2006, of the provisions of Chapter 34 of the City Code (Chapter 34) relating to the imposition of a critical period surcharge by the San Antonio Water System (SAWS) during times of drought restrictions.

Approval of this Ordinance is recommended.

BACKGROUND INFORMATION

On June 16, 1994, City Council passed Ordinance No. 80330, adopting a Critical Period Surcharge Rate (the "Surcharge") to go into effect at the beginning of "Phase I of Critical Period" and for "Phase II of Critical Period" for all residential water service customers. Critical Period refers to those times when the Edwards Aquifer level drops below 650 feet above mean sea level.

The Surcharge, which applies only to residential customers, was designed to provide a mechanism that would allow the management of residential customer demand during times of drought. Many changes have taken place since the inception of the Surcharge. SAWS has reduced per capita consumption by 22.4 percent by working together with customers, the City and through citizen advisory committees. SAWS has worked with the City to implement a series of discretionary water use restrictions that go into effect when the Edwards Aquifer level drops to 650 feet. Chapter 34 requires the mandatory implementation of the Surcharge, which does not account for these changes and is inconsistent with the staged approach to water use reduction outlined in other areas of Chapter 34.

In addition, the terminology used in Chapter 34 relating to the Surcharge is inconsistent with the terminology used for drought restrictions. Chapter 34 refers to the imposition of the Surcharge in terms of "Phases", while drought restrictions are defined in "Stages". Finally, Chapter 34 does not specify when or by what means the imposition of the Surcharge ceases.

SAWS estimates that, if implemented in the summer of 2006, the Phase I Surcharge would affect 13% of residential customers and the Phase II Surcharge would affect 47% of residential customers. SAWS may grant variances or relief to the imposition of the Phase I surcharge based on the health and safety needs of a customer. Chapter 34 does not allow this option for the Phase II Surcharge. Although the Surcharge was implemented in 1996 during drought periods, it was not applied during drought periods in 1998, 2000, or 2002.

SAWS' citizen advisory groups have reviewed the Surcharge language. The Citizens Advisory Panel (CAP) passed a motion on March 14, 2006 in support of maintaining a residential surcharge provided that an evaluation of the criteria for commencing the surcharge and need for a companion commercial surcharge, among other items, be determined. The Community Conservation Committee (CCC) passed a motion on March 15, 2006 to suspend use of the Surcharge until the language authorizing the Surcharge can be rescinded from City Code. In addition, it unanimously passed a motion to support the creation of a special citizens' workgroup to evaluate all available means that could be used to reduce customer demand.

The development of the special citizens' workgroup, will comprise members of the CAP and the CCC who will be appointed by their respective Chairs, will provide an effective vehicle for examining these issues. The special citizens' workgroup will present its recommendations to SAWS Board of Trustees by August 31, 2006. SAWS will present recommendations to City Council by September 30, 2006. The proposed ordinance will suspend enforcement of the Critical Period Surcharge through September 30, 2006.

FISCAL IMPACT

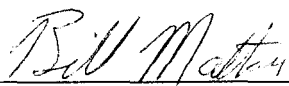
The critical period surcharge is not considered a revenue item for SAWS rate development purposes.

COORDINATION

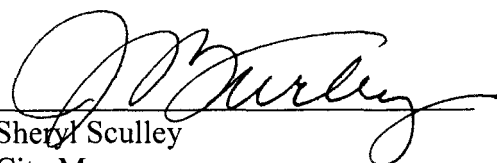
SAWS' Board of Trustees approved this item on March 21, 2006. It has been coordinated with the CAP, the CCC, the Water Resources Committee, SAWS staff, and the City Attorney's Office.

SUPPLEMENTARY COMMENTS

The disclosure requirements of the City's Ethics Ordinance are not applicable.


Ben Gorzell Jr., CPA
Acting Director of Finance

Approved for Council Consideration:


Sheri Sculley
City Manager